Board of Behavioral Sciences

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Arnold Schwarzenegger, *Governor*
State of California
State and Consumer Services Agency
Department of Consumer Affairs

POLICY AND ADVOCACY MEETING MINUTES

October 10, 2008

Sheraton Pasadena
303 East Cordova
Pasadena, CA 91101
9:30 a.m. – 2:30 p.m.

Members Present
Gordonna DiGiorgio, Chair, Public Member
Renee Lonner, LCSW Member
Karen Roye, Public Member
Dr. Ian Russ, Chair, MFT Member

Staff Present
Paul Riches, Executive Officer
Tracy Rhine, Legislation Analyst
Sean O'Connor, Outreach Coordinator
Kristy Schieldge, Legal Counsel
Christina Kitamura, Administrative Assistant

Members Absent
None

Guest List
On file

Gordonna DiGiorgio, Committee Chair, called the meeting to order at 9:30 a.m. Christina Kitamura called roll, and a quorum was established.

I. Introductions

Audience members introduced themselves.

II. Review and Approval of the July 11, 2008 Policy and Advocacy Committee Meeting Minutes

Ian Russ moved to accept the July 11, 2008 Policy and Advocacy Committee Meeting Minutes. Renee Lonner seconded. The Committee voted (4-0) to pass the motion.

III. Review and Possible Action to Recommend Revisions to the Board's Disciplinary Guidelines

Tracy Rhine reported. At its July 11, 2008 meeting, the Policy and Advocacy Committee discussed revisions to disciplinary guidelines. The guidelines established the maximum and minimum discipline that can be imposed for violation of the Board's laws and regulations. There were technical changes needed; those were made. There were a few items discussed relating to access to courses for individuals on probation, and for access to supervisors and psychotherapists as ordered by probation. Page 18 of the guidelines (changes in blue underlined fonts), #3 – Psychotherapy – The Board wanted to see some type of language in the guidelines that allows for face to face or video conferencing for those individuals ordered to do psychotherapy but who live in a geographical area that they are unable to do so. Language inserted in first paragraph under #3, "Face to face or with the written permission of the Board via video conferencing shall occur…" and then it continues on.

The next issue for discussion showed two options for consideration. Option 1 regarding psychotherapy allows a probationer to secure a therapist with whom they already have a business or professional relationship if "a good faith effort or good faith attempts" have been made with written permission from the Board. Option 2 – Guidelines allow probationer to secure services from a therapist with whom they have a prior relationship if they are unsuccessful in obtaining a new therapist. The new language defines "unsuccessful" as follows: "Unsuccessful means respondent has been unable to secure a psychotherapist within a 50 mile radius of his/her home that has no prior business or personal/professional relationship with respondent." Ms. Rhine suggested that the Board discuss the need for parameters on what it means to be "unsuccessful" or what the attempts need to look like, or if the Board wants to keep it open and is willing to allow people to find a therapist with whom they have a prior relationship without setting parameters.

The issues raised by Ms. Rhine were discussed individually.

With respect to the issue of allowing videoconferencing for supervision of probationers, Dr. Russ wondered if video conferencing is available, is there a need to approach the other issues because a probationer can get supervision from a therapist who lives away in a different geographical location from probationer. Dr. Russ questioned the need to go into the rest of it and face that problem if the probationer can have the therapy by video verified.

Ms. DiGiorgio agreed with Dr. Russ, not seeing a need to go further to another option if the Board can obtain verification of the person doing the video conferencing.

Ms. Roye agreed. The trend toward video conferencing is that many professional disciplines are leaning towards this. She doesn't see the need to go any further with other options.

Ms. Lonner asked if the Board was certain that a respondent who is having trouble finding a non dual-interest therapist has access to video conferencing in such a rural setting.

Ms. Roye responded that in terms of accessibility, many counties are using video conferencing and teleconferencing. Family law courts are utilizing video conferencing or teleconferencing as acceptable alternatives to appearing in court. She expressed that if the Board opens the door to use of videoconferencing, the issue of accessibility will work out.

Ms. Lonner agreed that the deficits of videoconferencing are much less than the deficits of dual relationships.

Ms. DiGiorgio expressed that it shouldn't be that difficult to find video conferencing services.

Ms. Roye expressed that it also offers the opportunity to make sure that there is not a conflict of interest because there is a wider group of people that one can look to for the supervision.

Ms. DiGiorgio opened the discussion to the audience for comments.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), supported allowing video conferencing. She stated that technology is inexpensive, widely available, and accessible, and the deficits that come from that mode of supervision or oversight are much less than the deficits that come into play with engaging in supervision with someone with whom probationer has a prior business or personal relationship.

Mr. Riches clarified that there are two separable issues being considered: 1) relates to mandatory ongoing psychotherapy. There is also a situation involving the mandate of having a probation supervisor. Is the Committee discussing the use of videoconferencing in both cases or only for psychotherapy? Mr. Riches noted that the issue raised by Ms. Rhine at that time pertained to psychotherapy. The issue of videoconferencing for compliance with the supervision requirement was to be discussed later on the agenda. Mr. Riches indicated he was not sure it was inappropriate to discuss both issues at the same time, but did want to make sure it was clear that two separate issues were being discussed.

Mr. Riches stated that board staff currently receives quarterly reports from both the practice supervisor and therapist, as the manner in which the Board stays abreast of what's going on in those relationships with probationers. Making a decision to allow videoconferencing would not impact that ongoing monitoring.

Dr. Russ suggested dropping the other two pieces and going ahead with video conferencing.

Janlee Wong, National Association of Association of Social Workers (NASW), encouraged the Committee to remain flexible with those who have been assigned to use this modality and experience difficulty in doing so. He expressed that video conferencing equipment is not as available as one might think. Some areas only have a dial-up connection to the internet and may not get a good signal. Another issue of concern was that people who do this work with people in urban areas need to understand the culture of those in rural areas. There is a cultural difference, and therefore, the need to be more sensitive. Dual relationships are more prevalent in rural areas. The Committee needs to look at what's going on in the smaller communities and how these type relationships exist with a small number of people in the small town.

Mr. Riches stated that the point raised by Mr. Wong goes back to the original point - previously there was an absolute prohibition of dual relationships, and that was the genesis of this discussion. If we are looking to be responsive to that concern then we need to address the issue raised by Ms. Rhine and Ms. Schieldge - what does "unsuccessful" mean? Can you establish a suitable relationship by teleconference or videoconference as one of the things you have to exhaust before you get to being "unsuccessful?" It can be an approach the Board takes if that is something they want to accommodate.

Ms. Roye reminded that this is just an option that is now available that may not have been available several years ago but is available now. She encouraged the Board to look at this seriously as an option to be used, but to also keep in mind that there are other options as well.

Dr. Russ asked if this would replace the necessity to have Option 1 or 2. He agreed with Mr. Wong about the different lifestyle in small rural communities including the level of internet access and accessibility to videoconferencing.

Ms. Roye expressed concern regarding the Committee making a decision based on the premise that rural areas don't have access to necessary videoconferencing equipment. She reminded that videoconferencing in just one option.

Mr. Riches summarized the Committee's discussion. He indicated that it seemed like the Committee had set up a series of preferences: 1) live, in person, no conflicting relationship. If that's not realistic, 2) is there some way to establish this by a videoconferencing arrangement. They would have to demonstrate that the alternate option (in person) is not available within a reasonable distance. And then if probationer can show that the first two steps have been

exhausted unsuccessfully, move on to the next step (possible dual relationship). Committee members concurred with Mr. Riches' summary of the discussion.

Ms. Schieldge clarified the tiered approach and outlined the options. The tiered approach would be: 1) no conflict, face to face psychotherapy. If probationer can adequately demonstrate that is not possible, then 2) teleconferencing. If that is not possible, and they can demonstrate they cannot get the supervision, then what is the last option?

Ms. Lonner responded that the last option would be that probationer could have a therapist where there was a previous relationship.

Discussion was held regarding steps a probationer would have to take before being allowed to engage a therapist or supervisor with whom a prior relationship exists.

Ms. Schieldge clarified that the Board's definition of "unsuccessful" is: 1) Not being able to find someone with whom there is no prior relationship; 2) not being able to secure teleconferencing as an option; and 3) demonstrating that they have exhausted #1 and #2 before the Board is willing to consider allowing the probationer to have a psychotherapist or supervisor with whom a prior business or professional relationship exists

Discussion took place regarding allowing probationers to have a psychotherapist or supervisor with whom a previous personal relationship exists. The general consensus was that a previous personal relationship was inappropriate, even in small communities.

Ms. Schieldge clarified that this change would be generic, unless the Board clarified that it only applied to rural communities; otherwise it would be a generic standard that could be applied in any larger urban context as well.

Robin Emerson, California Society for Clinical Social Work, asked if the Board could leave definition of "personal" open since the final requirement is for the Board to approve the person's plan for psychotherapy or supervision. She suggested that board staff could evaluate the relationship between the probationer and prospective therapist/supervisor to determine if that was a serious conflict of interest or a situation that could potentially work.

Discussion continued among the Committee members.

Mr. Riches indicated that there are currently two standards: 1) Evaluating any dual relationship. Is it potentially exploitive of client? 2) Is action sufficiently protective of public interest? In evaluating such situations in this context (probation compliance), one has to look at it from both perspectives. Is the Board setting up something in the therapeutic relationship which would be a problem independent of anyone's probation status? That is one threshold to get past. The other threshold the Board has to get past is that of setting something up that's not going to be adequately protective of public interest. He stated there was a need to look at those two questions in terms of how to evaluate the situations in question.

Ms. Roye encouraged the Board to remember that they are talking about a probationary situation, and therefore, the burden is different than in a general therapeutic situation. The Board wants to make sure that in lieu of revoking someone's license, the individual is doing everything they can to bring themselves back to where they need to be professionally.

Ms. DiGiorgio supported the premise of looking at each case on an individual basis as indicated by Mr. Riches.

Ms. Schieldge added that another criterion for "dual relationship" is impairing the judgment of the therapist. One has to be concerned about placing a therapist in a situation where they have impaired judgment because of their prior relationship with the person to whom they are providing therapy.

Ms. Schieldge added that there's an issue here with either giving staff too much direction in setting a new standard in regulation that you may not want to set or giving them a lot of discretion to look at these on a case by case basis, perhaps consult with experts about whether it would be a problem to allow such a relationship.

Ms. Schieldge asked the Committee if it would be comfortable with allowing a prior personal relationship if it's analyzed by staff in consultation with experts. Ms. DiGiorgio responded yes.

Mr. Wong suggested that the Board not allow prior personal relationships because it would affect that relationship, and the Board does not want to be in that position. Close personal relationships should be avoided. You don't want the appearance of the government affecting personal relationships. What if the people got divorced because of this? Never spoke again? That does present a hardship because of the extreme cases where there is absolutely nobody. *Close* personal relationships should be avoided. If you only see someone once a year, that is not necessarily a friendship. What if the person receiving the service complains about the other therapist? Is the therapist providing information based on dual relationship instead of providing good therapy or supervision?

Ben Caldwell, Alliant International University, noted that the issue of how concrete to get with defining "dual relationship" has been addressed/struggled with in the past by the American Association for Marriage and Family Therapy (AAMFT) Ethics Committee. The result has been a purposeful vagueness. If one tries to very explicitly lay out what is and isn't a dual relationship, there will always be exceptions. He would be comfortable with the Board making decisions on case by case basis, bearing in mind this is an option of last resort. Face-to-face work with someone with whom there is no prior relationship is not an option, and video conferencing is not an option. Hopefully those would be very rare cases; assuming they are, he would be comfortable with the Board or staff having the discretion to decide whether or not a plan of supervision of a plan of personal psychotherapy is appropriate.

Ms. Riemersma stated that there was a clear precedent already established in law and regulation in regards to supervisees – both psychotherapy and supervision. The standard is already established even when it comes to intern or trainee not being supervised by someone with whom a prior personal or professional relationship exists. She indicated that that is just for purposes of gaining hours of experience. The issue at hand is much greater because it is dealing with probation. A dual relationship undermines the ability of the person doing the supervision or psychotherapy to work effectively with the person receiving the services who is being disciplined. She encouraged the Board to allow a previous dual relationship only in cases where nothing else works.

Ms. Schieldge referred to Option #1 which states that unsuccessful due to the quantity or availability of qualified health care professionals in the area – For clarification, she asked if this part of the analysis was the trigger for going over the first hurdle, meaning they've exhausted it.

Ms. DiGiorgio questioned if that meant the existing language needs to be changed.

After discussion, the Committee agreed that language needed to be changed.

Dr. Russ suggested adding language to page 18, option 2: "No prior business or professional relationship, or unsuccessful due to the availability of qualified health care professionals in the area."

The Committee further discussed existing language and allowing a personal relationship. The determination was made that only previous professional or business relationships should be allowed.

Ms. Schieldge confirmed the Committee's intent: If 1) no therapist is available with whom there was no conflicting relationship, and 2) no video conferencing available; then the Board may permit a probationer to secure a therapist or supervisor within whom a prior business or professional relationship exists.

Committee members agreed they were comfortable with such language and it provided staff with sufficient direction.

Supervised Practice, page 19 of Disciplinary Guidelines

Ms. Rhine indicated this was the same discussion. When drafting language, she did not include video conferencing because at a previous discussion of the matter it was only related to psychotherapy for probationers. Language inserted in #4 under Supervised Practice would allow a respondent to receive supervision from a therapist with whom they have a prior business or professional relationship or from a supervisor who practices in a field that is different from respondent's field.

Ms. Rhine asked if the Committee wanted the language in this area to mirror what was decided on for psychotherapy, allowing respondent to do video conferencing, i.e., the tiered criteria as with psychotherapy. She asked how the Committee wanted the language to look regarding supervision.

Dr. Russ opined it should be the same; other Committee members agreed it should be kept consistent.

Ms. Rhine questioned if the Committee also wanted to allow use of a supervisor/therapist who practices in a field different from respondent's, in addition to the issue of the relationships.

Mr. Riches explained that for license supervision there is currently the ability for professionals with an overlapping scope of practice to provide supervision as a qualification for licensure. The current recommended action would be applying the same principal for probationary supervision that is already permitted for licensure.

Ben Caldwell, Alliant International University asked for clarification. Does the Committee want to express a preference between having a supervisor who is outside of the respondent's field of practice as opposed to someone with whom a dual relationship exists? The language says one or the other– is one preferable to the other?

Mr. Riches responded that the preference would be to have someone of a separate professional license category than anyone with an existing dual relationship.

Mr. Caldwell asked if it is possible to clarify that in the language.

Mr. Riches stated his position is that it would always be preferable to have any appropriate licensed individual without a relationship.

Mr. Rhine asked if changes should be made to the language to reflect that, or was it preferable to leave language like it is and allow the Board to have the discretion.

Ms. Schieldge stated that language should be changed to reflect Board's position in this area.

The Committee agreed.

Education

Ms. Rhine referred to the 5th line of the amended language, "…or through a course approved by the Board." This is language that was added after discussion at the last Committee meeting about issues of probationers being able (or not being able) to get classes they are ordered to complete. This language came about to open it up to other sources as yet to be determined.

Mr. Riches noted that one change was needed. The language "classroom attendance must be specifically required; workshops are not acceptable" needs to be stricken as that was what was being contemplated with language approved by the Board.

Discussion was held regarding education, availability of courses, and the use of CE to comply with this requirement. Committee members also discussed the importance of education versus supervision in cases of probation.

Ms. DiGiorgio expressed that therapy and supervision are very important, as is education; however, believes other two are even more important.

Ms. Lonner agreed, and added it is something for the supervisor to use if education is a component that is appropriate.

Dr. Russ added that probationers should get an education piece but believes that requiring the education to be completed at an institution versus a workshop setting may not need to be so essential.

Ms. DiGiorgio asked if then there was a need to change the language.

After additional discussion, Ms. Schieldge clarified the Committee's intent to keep the language "classroom attendance must be specifically required…" and strike "workshops are not accessible."

Mr. Wong expressed the need to be more precise about the education a person being disciplined must complete. There is the need to be flexible about how the education is delivered and what it is. Online education opens up a lot more possibilities. It is not easy to find a cultural competence course in a university that a probationer can get into. It's easier to take a workshop, and much easier to take a cultural competency course online. It is not easy to find many of the courses/areas of study required of probationers.

Mr. Riches explained that before the course is taken the paperwork about the course is submitted to the probation supervisor and the course is evaluated. Sometimes the answer is no in terms of does the content meet the directive of the probation agreement. There is a process of review.

Ms. Roye asked the history of how or why the language about acceptability of workshops got into the regulations.

Ms. Schieldge stated her understanding that there was hesitance to allow use of a continuing education (CE) course to satisfy education requirement. The previous Board wanted coursework to be at the graduate level to ensure "quality" of course being completed. CE courses did not enforce attendance etc., in their courses where such factors are more strongly enforced in institution/graduate level courses.

Ms. Roye asked if language is taken out, does the Board have some way to address the historical challenges of whether or not the confidence level is there in terms of workshops.

Mr. Riches explained that attendance is required at CE workshops and there is a process in place to ensure the same. The reality is that there are not a lot of university level courses that solely address issues such as documentation, boundaries, law and ethics courses.

Ms. Roye stated that the Board was talking about discipline. Probationers should be required to "step up" and do what is necessary in order to maintain their license.

Mr. Riches indicated that currently there exist some probation agreements that are borderline unenforceable because the Board is requiring probationers to take a class that doesn't exist. Usually the requirement is that remedial education be completed in the first year of probation. Even in a 4-year period there are no guarantees the necessary class will be found or will be available. If such courses are required as a condition of probation, and the probationer cannot comply with the requirement because the coursework is not available, that is not a tenable position.

Ms. Lonner stated the position that the subjects of boundaries and recordkeeping should be the meat of supervision for a licensee who is being disciplined. Preferably those issues would be covered in face-to-face supervision, teleconferencing – some type of one-to-one contact.

Ms. Riemersma explained the history on why the course/workshop requirement was put in regulations, stating that this was done because the thirty-hour graduate level course is more intense and rigorous than a workshop. The reality is that certain required courses (boundaries) are not available. The Board does need the latitude to require a different kind of approach to the education requirement. She suggested perhaps requiring a probationer to do research in a particular area, write a paper, etc. to satisfy the requirement in lieu of a class that is not to be found.

Bob Weathers, Southern California Seminary, asserted that a course presented to an entry-level student would have to be very different from a course on the same subject to be presented to a long-time practitioner. He could see no reason that university programs could not respond to the presenting problem by developing a course that is specifically geared toward individuals who are being disciplined. These would be more in-depth than courses that are currently offered via CE or at entry-level.

Dr. Russ brought up the idea of putting together a course at college level.

Mr. Caldwell stated that such a process had been attempted in the past and was not cost effective for the school. He acknowledged that his school does regularly receive calls from probationers asking about availability of courses required as part of the probation agreement.

Ms. DiGiorgio asked Mr. Caldwell if suggestions were made to these individuals about other places where these courses could be taken or other suggestions about how they can obtain the required education.

Mr. Caldwell responded that if the institution does not offer such course, sometimes the institution is able to make suggestions to the probationer regarding compliance; but sometimes they are not. For recordkeeping, for example, there is no place to send them.

Ms. Lonner asked if the Committee wanted to add language that allows the supervisor to design a course of independent study if it is not already available.

Mr. Riches clarified that the language being considered gives the Board the ability to approve things. Essentially, it opens the door, giving the Board the flexibility to deal with this issue while possibly developing alternatives.

License surrender

Ms. Rhine noted that this issue was not previously discussed by the Committee. She summarized the amendments. A person who surrenders the license would not be able to reapply for three years. The proposed language would make it consistent with language pertaining to individuals who have had their license revoked. Heretofore, there has not been a similar restriction on surrendered licenses. After discussion with legal counsel the suggestion was made to move this language to the section "Recommended language for license surrenders."

Mr. Riches noted that this action is just moving the language; there are no changes to language.

Mr. Caldwell asked about the appropriateness of changing the title to "Recommended language for license **and** registration surrenders."

Mr. Riches responded that usually a registrant who surrenders is gone. They would be reapplying to obtain a new number and be operating under supervision, etc. If cause for discipline was such that the individual surrendered his/her registration, chances are they are not going to make it through the application/evaluation process.

Renee Lonner moved to accept changes that have been discussed and recommend all language as amended to the Board. Ian Russ seconded. The Committee voted unanimously (4-0) to pass motion.

IV. Discussion and Possible Action Regarding Use of Out-of-State Examination Sites

Mr. Riches reported that the Board's licensing examinations are currently administered by a testing company, PSI, at 13 sites throughout California on a continuous basis. One provision of the new contract with PSI is access to some of their locations outside of California throughout the country. Everything remains the same: operated by the same company, same protocols, same as taking the exam in California. A change would require modification to the existing agreement with PSI, but such modification reportedly is not complicated. This change would provide easier access to the exam for out of state candidates. There are no apparent down sides.

Ms. Roye asked about exam security. Mr. Riches explained that the 10 listed out-of-state sites are in compliance with the DCA security standards applicable to the in-state sites.

Mr. Caldwell agreed this was a good idea. It would make the road easier for out of state applicants.

Donna DiGiorgio moved to recommend to the Board to allow use of out-of-state examination sites. Ian Russ seconded. The Committee voted unanimously (4-0) to approve the motion.

The Committee adjourned for a short break.

V. Discussion and Possible Action of Requiring Minimum Hours of Experience Treating Families for Marriage and Family Therapist Licensure

Mr. Riches opened by providing a history of this issue. In the MFT Education Committee work over last two years, one issue was raised as relates to qualifying experience for licensure as an MFT. One issue presented was that specific experience in treating families or couples or family units as a whole is not explicitly required to become a marriage and family therapist. There are currently several categories of experience, one of which allows couples, families, and children. Candidates can fulfill the requirements for licensure exclusively treating children within this category. There were several requests from the community to revisit this issue. This is the first opportunity to begin addressing the community requests. Mr. Riches acknowledged it is already a complicated system of hours and it's an area that is very confusing to everyone. Mr. Riches wanted to start a discussion at the current meeting to lay out issues so the subject can be worked on for awhile.

Mr. Riches provided documents to help the Committee including the LCSW and MFT Student Handbooks and the MFT experience requirements. He noted that the clinical social work experience model is radically simpler and less complex; unsure if it is preferable. That issue has not yet been determined. In reviewing the documents Mr. Riches tried to come up with what could be considered a typical, characteristic application. He noted that the requirements for licensure are very different between the two professions.

Mr. Riches stated he is looking for input from the Committee members and the community. How does the Board approach this issue in a way that ends up with something that makes more sense, is more manageable than the current process? Mr. Riches noted the large disparity between MFT and LCSW candidates regarding hours spent in supervision. Fairly detailed information is scheduled to be presented at the November Board Meeting about licensing outcomes.

Dr. Russ added to Mr. Riches' comments. He spoke about the possibility of creating an incentive, as opposed to a requirement, for gaining hours of experience in certain areas. He definitely agreed the existing process is complicated and needs to be simplified.

Charlene Gonzalez, Los Angeles County Children's Services, expressed concern that information provided at that time regarding hours of experience required for MFT versus LCSW candidates did not accurately reflect LCSW efforts. Many hours of experience are gained pre-degree. She felt the documentation presented at the Committee meeting was not a fair representation of LCSW.

Mr. Riches responded that this item is not really a question about LCSW requirements but rather the MFT requirements. Still, he thinks there is information to be gathered in addressing the MFT issue from looking at what the Board does for a license group that has an overlapping scope of practice. What are the qualifications for licensure? He clarified that the discussion that is at hand is not intended to be nor is it a comprehensive evaluation of the experience; rather it is a look at

what are the license requirements. It is not about saying the LCSW experience is insufficient. It's about saying there is a structure for the MFTs that does not make sense, and one way we know it doesn't make sense is that there is a similarly situated profession that is treated very differently. Not to say the LCSWs are not up to standard. The contrast is intended to be informative, not to be a lessening of anyone's qualifications.

Mr. Wong agreed that simplicity is very important.

Olivia Loewy agreed with the need to simplify the requirements. The existing process is very complicated and challenging.

Mr. Caldwell commented about California's requirements regarding MFT licensure versus other states' requirements. He feels that it would be best for everyone to be required to have the same levels of experience in the same areas.

Ms. Riemersma stated she did not see a need to make changes. She asked that if changes were to be made, that the Board be sure it made the process simpler, not more complex.

Kim Keating, University of Phoenix, works for a government agency in L.A. County. MFTs bring "unique perspective" to community work already. The Mental Health Services Act (MHSA) as it's being deployed in L.A. County places great emphasis on providing multidisciplinary teamwork with families of juvenile delinquents. She believes MFTs are uniquely qualified in this area. However, she does believe interns shy away from working with families. She sees trainees have a difficult time figuring out how to work with children. She agreed with the suggestion of an incentive as opposed to a requirement and feels that might make interns more interested to take on cases that include families. She does not have an answer on how to simplify the process, but does think it could be beneficial.

Carla Cross, Ventura County Behavioral Health, would definitely support simplifying process.

Mr. Wong commented that he believes it is very important to be a little bit more precise on words, descriptions, and definitions. Terms such as family work, family case work, and family therapy are all being thrown together - they're not the same. His understanding is that the vast majority of child welfare workers, for example, do not provide family therapy. They do case management with families, which means they can work with families and children as a unit. The court often orders family therapy which is appropriate and fine, but usually it's not the case worker at the Department of Children and Family Services (DCFS) providing the family therapy. It's usually sent outside to a contract person or perhaps employed by the department.

Ms. Riemersma indicated that she does not have any problem with creating incentives towards the gain of family therapy hours versus family case management. But if there are going to be incentives, she feels that LCSWs should also have the opportunity to gain incentivized hours for providing family therapy.

Mr. Riches summarized that there seems to be openness to considering for the MFTs an incentive type arrangement as it relates to family therapy hours. Additional discussion will be required regarding the wording and the need for clarity. There seems to be a general agreement that it would be nice to figure out a way to make this less daunting and less complex. Mr. Riches expressed concern about the supervision ratio for interns as meriting discussion. He reported trying to create a list or discussion document to bring back to the Board; not necessarily a proposal but more a list of issues to be discussed to determine what is liked and not liked.

Dr. Russ spoke about looking at two different approaches: 1) A generalized approach similar to the approach used for MFT curriculum changes, without specific hours; 2) Looking at four things in this context - 1. Suggestions to simplify supervision. 2. Dropping workshops. 3. The possibility of looking at a family therapy incentive where, for example 500 hours equals 1000 hours with a maximum of 500 hours allowed. 4. How to include advocacy and recovery attitude. He suggested looking at those specific things and perhaps coming back to the Committee or Board with specific ideas for discussion.

Additional discussion occurred among committee members and audience.

An audience member asked if this was the appropriate time to discuss this matter as it pertains to LCSWs. Mr. Riches responded that the present discussion was intended to be related to MFTs. He agreed to put it on the agenda for the January meeting the discussion of this issue as it pertains to LCSWs.

Ms. Cross suggested a simple way to simplify MFT process would be to change the way the hours are calculated or counted while in school, and have those hours be put into the educational requirements so they are not added into the licensing requirements.

Mr. Riches asked if Ms. Cross was talking about counting only post grad hours. Ms. Cross responded that although she does not really agree with that approach, she does think it is one way of simplifying the process.

Ms. DiGiorgio stated that the issue would be brought back for further discussion.

VI. Discussion and Possible Action Regarding the Mandatory Submission of Fingerprints for Board Licensees and Registrants

Mr. Riches provided background history of the issue. The Board has been requiring submission of fingerprints since early 1990s for all applicants. A review of the current data revealed that only about half of the licensee base has been printed and been the subject of a background check. This issue was discussed by the committee at the July 2008 meeting regarding pursuing the statutory authority to require everyone to submit fingerprints. Subsequent to that conversation, Mr. Riches spoke with the Department of Consumer Affairs (DCA). There is a significant likelihood there will be a proposal in the legislature this coming year regarding this matter. The Board is working with the department on a broader proposal but wanted to inform the Committee about what was going on. He indicated a recommendation was sought from the Committee to take to the full Board that the broader initiative be supported or at a minimum, come up with an initiative specific to the Board so it can look at getting a bill in the legislature next year to get something put in place to require the fingerprinting of the balance of the licensee base.

Ian Russ moved to recommend to the Board to support the Department of Consumer Affairs' proposal in this matter or to come back with an independent recommendation. Renee Lonner seconded. The Committee voted unanimously (4-0) to approve motion.

The Committee adjourned for lunch at 12:05p.m. and reconvened at 1:09 p.m.

VII. Discussion and Possible Action on Statutory Clean-up Proposals

(The Committee requested to hear agenda item VIII at this time in order to allow LCSW audience members to return to the meeting and participate in discussion of item VII. Documentation of the discussion of Item VIII appears in sequence as it appears on the agenda.)

Ms. Rhine reported. Staff has determined that several sections of the Business and Professions Code (BPC) pertaining to the BBS require amendments. These amendments mostly add clarity and consistency to licensing law.

Amend B&P Code Section 4996.24 – Currently there is a maximum number of interns allowed under supervision in a private practice setting. Ratio is two interns per supervisor; currently there is no stipulation to the number of ASWs that can be supervised in private practice. Recommendation from staff is to create consistency in the practice setting by setting a maximum of two ASWs that may work under the supervision of a licensed professional in private practice setting.

Amend BPC Section 4996.28 – Currently after the 5th MFT intern registration renewal, interns cannot practice in a private practice setting under any subsequent registration. There is currently no similar stipulation for ASWs. This amendment would limit practice on a subsequent ASW registration to those that are not private practice settings.

Amend BPC Section 4996.23 – Previously a provision was added to the MFT licensing law stating that interns cannot lease or rent space or in any other way pay for the obligations of their employer. Staff is proposing that the same provision be added for ASWs.

Amend BPC Section 4982.2 – This item came from an issue from enforcement staff. Currently there is nothing in law stating that a registrant can petition for reinstatement of modification of penalty. Current language only refers to a licensee. There are other parts of statute that would seem to indicate the intent for the Board to allow reinstatement for registrants. This proposed amendment would add “registrant” to this code section allowing them to petition for reinstatement.

Amend BPC Section 4982(r) and 4992.3(r) – Unprofessional conduct statute currently states it is unprofessional conduct for a supervisor to engage in certain activities/behaviors within the supervision of their own licensee type: MFT to IMF or trainee; LCSW to ASW. The way that the code sections are currently written it doesn’t allow for it to be considered unprofessional conduct for a supervisor supervising an individual who is a different field. The proposed amendment would be to add “ASWs, MFT Interns and trainees” to the statute so it doesn’t matter who the supervisor is actually supervising but rather that it’s the conduct that is at issue.

Amend BPC 4992.1 and 4989.22 – Currently in MFT and LEP statutes relating to record retention and examination policies there are provisions that are not similarly included in the LCSW statute. 1) The board cannot deny admission to the written exam if the Board received complaints against an applicant. 2) If an applicant has passed the written exam, the Board must allow the applicant to take the clinical vignette examination, regardless of the nature of the complaint. 3) The Board is allowed to deny permission to retest if the applicant has failed either the written or the clinical vignette examination if there is a complaint on file against the candidate. 4) An applicant is not eligible to take the clinical vignette examination if the passing score on the written examination is more than seven years old. (The applicant must pass the clinical vignette within 7 years of passing the standard written exam.) Said provisions are currently in statute for MFTs and LEPs. This would add similar language to the LCSW statutes.

Amend BPC Section 4996.5 – Errant reference in section. Currently language speaks about an annual renewal fee for an LCSW license. Fees are biennial, not annual. Amendment would correct the language.

Mr. Wong asked for clarification regarding the motivation behind the limitation of number of ASWs that can be supervised other than the Board wants it to be the same as MFTs.

Mr. Riches explained that this proposal was based on the same reasoning as with the MFT law; there is an issue about availability of supervision mills. The Board wants to make sure supervisees receive quality supervision experience and a function of that at some level is the number of supervisees that a private practitioner can handle at any one time, and the policy judgment reached was two. That logic applies equally in both cases in the same practice setting.

Discussion ensued regarding need for limiting the number of individuals that can be supervised in a private practice.

Ms. Riches clarified that this would not prohibit an outside supervisor under a permissible arrangement from coming in and providing supervision in an agency setting. This is speaking about a supervisee working in a private practice setting, not an agency setting.

Ian Russ moved to direct staff to sponsor the statutory changes in the upcoming legislative session. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass motion.

VIII. Update on Board Actions, Proposed Legislation, and Proposed Regulations Regarding Acceptance of Degrees Granted by Institutions Approved by the Bureau for Private Postsecondary and Vocational Education

Mr. Riches reported that AB 1897 passed and was signed by the Governor. Included in the legislation is recognition of the other regional accrediting bodies. That change in law is now fixed so that programs that are accredited by another regional accrediting body but operating in California - their graduates would be eligible irrespective of the 2010 date. This takes effect January 1. There are still a number of programs that are strictly approved by BBPVE; this will continue them through 2010. Mr. Riches noted that at its afternoon meeting, the Board will consider extending by regulation the Board's ability to accept those degrees through 2012.

IX. Discussion and Possible Action of Possible Revisions to the Board's Advertising Guidelines and Regulations

Ms. Rhine reported that the original discussion of this issue came before the Committee in October 2007, at which time staff was directed to revise the proposal and bring it back to the Committee. Currently statute regarding advertising directs the Board to promulgate regulations about the services that a licensee may advertise, the manner in which the services may be advertised, etc. The Board has three ways that that is done currently: 1) a policy; 2) a guideline; and 3) current regulation. At issue in the past, and currently, is the presence of inconsistencies between regulations, policy, and the guidelines. Inconsistencies include: 1) Policy requires a licensee to provide their license number on the advertisement, but the guidelines do not make such a requirement. 2) Guidelines state you have to indicate the type of license held, using a complete title or initials, but the policy says you have to use the complete title, and the regulations are not specific in this area. Staff has drafted new regulations, policy, and guidelines. Ms. Rhine reviewed the changes, starting with regulations because changes to policy and guidelines were based on the regulations.

Ms. Rhine raised another issue for discussion pertaining to supervised trainees. Currently everything in regulation, policy and guidelines has to do with supervision of interns because the Board does not currently have a regulatory relationship with trainees. She wanted to bring up that trainees are practicing but neither the policy, guidelines, or regulation would apply to them.

Dr. Russ asked if it is currently required that a trainee has to indicate that they are a trainee.

Ms. Rhine clarified that they have to "designate" that they are a trainee. Discussion was previously held with Ms. Schieldge regarding what that language means.

Ms. Schieldge offered that first the Board had to determine if there is a possibility the trainees might be advertising, either orally or in writing. If they might be then maybe a statutory change would need to occur to make sure that they have the same requirements for disclosure upon oral or written solicitation that the registrants or interns have to adhere to. There are specific requirements in statute for when they are providing services that they have to disclose up front that they are an intern, so that people know they are not licensed to practice independently. The question is should there be similar requirements for trainees, and if so then the language would mirror what exists for interns. That would be enforced through citation and fine.

Carla Cross asked, since trainees are not allowed to be in private practice, they are in an agency setting, what or how are they advertising?

Ms. Rhine responded that one possibility was through business cards.

Carla Cross stated that "advertising" would have to be defined. Is simply having a business card always considered an advertisement?

Mr. Riches responded that part of the guidance the Board gives is how to format business cards.

Discussion occurred about what agencies do in this situation.

Ms. Riemersma made several suggestions regarding existing language: 1) there should be something that clarifies that trainees need to be clear about who they are, and generally the employer is going to provide the cards but there should be specific language. 2) Regarding page 2 of the language, consider allowing LMFT (Licensed Marriage and Family Therapist). This request is made based on the national acceptance of both MFT and LMFT, as well as the fact that some clinicians in California want to use MFT while others prefer LMFT because it is more like LCSW, seems more comparable, and it is a *licensed* Marriage and Family Therapist. 3) With respect to Item D, she encouraged the Board not to allow MFTI for interns, as it is grossly misleading to the public. It needs to be clear that they hold a registration and are not fully licensed. She suggested using MFT Registered Intern or MFT Intern Registration Number in the language. It needs to be clear that that person is a registered intern to distinguish them from those who hold a license. MFTI is not sufficiently distinguishable. She finds is odd that a supervisee can use an abbreviation on the card but when they reflect the supervisor's information they have to spell out the title. It seems more appropriate to spell out the title of the unlicensed person and allow the abbreviation to occur with the licensee.

Ms. Schieldge noted that this is taken directly from the disclosure requirements for interns so she is unsure if the Board can take a different position with respect to what is disclosed on the business card. If interns are required to disclose the complete title, she is unsure that Board can say that they can advertise differently.

Mr. Riches stated this might be inconsistent with statute. Ms. Schieldge agreed and suggested the Board might want to review the existing statute.

Ms. Riemersma recommended changing the statute.

Discussion was held regarding the impact of suggested changes to the advertising guidelines on agencies. This could be cost prohibitive.

Ms. Reimersma suggested that it could be done upon employment so as not to adversely affect employer's costs. The new requirement for regulation and/or law would only impact new employees.

Mr. Wong suggested consulting employers and encouraged the Board not to put a mandate on employers. Mr. Wong also discussed the use of the acronym ACSW (Associate Clinical Social Worker), which may be an infringement on the NASW certification of ACSW.

Dr. Russ asked Ms. Gonzalez what cards for ASWs and MFT Interns employed at DCFS currently use.

Ms. Gonzalez responded that the title, registration or license number, and department name are on the business cards. It's not about the job function and the title; it's about scope of practice. If you are doing anything that is either the MFT or LCSW scope of practice, then you must advertise your skill as that licensed person.

Ben Caldwell, Alliant International University, suggested one way to resolve one concern raised by Ms. Riemersma and Mr. Wong would be in the abbreviation for Marriage and Family Therapist Intern and Associate Clinical Social Worker. To prevent the MFTI title from being misleading, just have the abbreviation for MFTI be Registered MFT Intern so you're abbreviating the MFT part but the word intern is still spelled out. He fully agrees that MFTI can be misleading. With regard to Mr. Wong's concern about infringing on a service mark or trademark, perhaps the same thing could be done for the ASW where the CSW part can be abbreviated but the Associate part is spelled out.

Mr. Riches brought up some statutory changes as well.

Per Ms. Rhine, the statutory changes are mostly technical. They are the same changes that were presented at the Committee meeting in 2007. 1) B&P Code Section 651 talks about advertising and what is fraudulent and misleading. Changes are technical and for purposes of clarification. 2) LEP statute was edited for consistency along with the LCSW change. Main points for discussion were changes to the regulations. The main points include the need for the name, full title or acceptable abbreviation (this is a significant change as at the present pretty much any abbreviation is allowed). There is the need to be consistent. With regard to supervisor's number and title, we can look at the suggestion. Last important part involves language that Ms. Schieldge worked on including academic credentials on advertisement. In subdivision E of the proposed language it notes that the degree has to be earned. Ms. Rhine defined "earned."

Documents were provided by Ms. Rhine pertaining to these changes and issues. Ms. Rhine identified for Committee members what the various documents were.

Mr. Riches noted there was one more outstanding issue was raised by both Ms. Riemersma and Mr. Wong regarding mitigating impact of proposal. He indicated it could become a very big

enforcement issue, but if it is something the Board is interested in discussing, it is important to not lose track of it or make a decision without resolving that issue first.

Additional discussion about changes to advertising guidelines continued among Board Members and audience.

Karen Roye moved to recommend to the Board to make statutory changes as discussed, including applying the same advertising requirements to trainees. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass the motion.

Ian Russ moved to recommend to the Board to initiate the rulemaking process per discussion and drafts submitted to the Committee. Karen Roye seconded. The Committee voted unanimously (4-0) to pass the motion.

Renee Lonner moved to recommend to the Board that it change Board policy to be consistent with the statutory and regulatory changes discussed. Gordonna DiGiorgio seconded. The Committee voted unanimously (4-0) to pass the motion.

Gordonna DiGiorgio moved to recommend to the Board that it change Board Guidelines to be consistent with the statutory and regulatory changes discussed. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass the motion.

X. Budget Update

Mr. Riches reported. The Governor signed the budget but left other pieces of executive order in place: hiring freeze, suspended contracts, and a ban on any overtime. Requests for exemptions were submitted for: four vacancies for enforcement analysts, a vacancy for an Assistant Executive Officer and for overtime. No response had been heard as of this meeting.

Other exemptions were granted with one exception. The exemption granted is with the hiring of consultants in psychometrics and public mental health. The contract with Lindle Hatton not approved for exemption.

Mr. Riches reported on good staff morale even with Executive Order. If hiring exemptions are not approved, it will force serious reprioritization.

Licensing Program application numbers are up. The workload is increasing and lack of additional resources is affecting performance, due in large part to not enough time in the day. The Board may have to reevaluate internal operations (reallocate work). Failure to be approved for positions in the Enforcement Program could be a serious issue. Routinely it is an 18-month wait for Division of Investigation (DOI) to complete the Board's investigations, which can be seriously problematic when the statute of limitations requires disciplinary action to be initiated within 3 years from the date the Board learns of the alleged act or omission that is the basis for the disciplinary action. Time required for: a) initial review of complaint prior to referring it to DOI, b) expert evaluation of a case following completion of DOI investigation, and c) completion of Accusation by Attorney General's Office also contributes to the tight pinch. Getting things in within 36 months is difficult. Board staff may have to reallocate resources and reprioritize internal operations if positions for investigative analysts are not approved, or obtain better level of services from DOI which is unlikely.

Ms. Roye asked Mr. Riches to prepare a briefing document that outlines concerns as Mr. Riches presented to the Committee. She also asked questions to clarify exactly where Board stands with

respect to hiring. Mr. Riches provided an update regarding steps he has taken in this regard. The requested document would help the Board understand where we stand at the present time, what can be expected, what his recommendations are regarding reprioritizing, etc., so the Board can have a good idea of how it's doing in meeting previously established goals (outreach; Strategic Plan; etc.).

Ms. Roye also asked that Mr. Riches provide an update regarding the budgetary status.

Mr. Riches reported that more information would be available in January with the release of the Governor's budget. A budget letter was sent out recently requesting preparation of specific reductions by General Fund agencies. No similar notification as yet to special fund agencies such as BBS.

XI. Legislative Update

Mr. Riches reported that the Governor vetoed the MFT Curriculum bill, very unexpectedly. Also vetoed was the annual Committee bill. No changes will be made that the Board had expected to make. The same provisions will be reintroduced next year. It remains possible that the previously identified implementation date for many of the changes can still be met.

Mr. Riches referred the Committee to the report on other bills that the Board has been tracking.

Mr. Caldwell noted in regards to AB 1897, there are conflicting end dates for accepting degrees from approved programs. Mr. Riches clarified the appropriate date as July 1, 2010.

XII. Rulemaking Update

Mr. Riches stated that the rulemaking update was included for reference.

XIII. Examination Statistics

Mr. Riches stated that the examination statistics were included for reference.

XIV. Suggestions for Future Agenda Items

The first suggestion was to address the ASW hours.

Mr. Wong requested an analysis for pass/fail rates for social workers.

Ms. Reimersma indicated the need for discussion regarding mandatory CE and how to deal with trainings by people/providers outside California who refuse to apply to BBS to be provider. As a result, individuals licensed in California who are living outside the state and want to maintain a current license are trying to obtain CEs out of state but the training is not acceptable. Bottom line is continuing education has been completed but it cannot be counted to actively renew California license because the provider will not become BBS approved. Some people are not gone long enough to apply for an exception to the CE requirement.

The floor was open to public comment. No public comments were made.

The Committee adjourned at 2:28 p.m.